

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WENDY SHELTON,)	
)	
Plaintiff,)	
)	
v.)	Cause No. 4:21-cv-01112
)	
UNITED STATES OF AMERICA,)	
)	
--HOLD SERVICE--)	
)	
Defendant.)	

COMPLAINT

COMES NOW Plaintiff Wendy Shelton, through counsel, for her Complaint against Defendant, and states:

1. This is an action against the Defendant United States of America under the Federal Tort Claims Act ("FTCA") (28 U.S.C. § 2671, *et seq.*) and 28 U.S.C. § 1346(b)(1) for negligence and professional negligence in connection with the medical care provided to Plaintiff by the Department of Veterans Affairs at the St. Louis, Missouri Veterans Affairs Medical Center (the "V.A.")

2. The claims herein are brought against Defendant under the FTCA sections referenced above for money damages as compensation for personal injuries caused by Defendant's negligence, and under the laws of Missouri.

3. Plaintiff has complied with the provisions of 28 U.S.C. § 2675 of the FTCA. Standard Form 95 attached as Exhibit 1.

4. This suit was timely filed because Plaintiff timely served notice of his claim on the Department of Veterans Affairs, the United States Department of Justice, less than three

years after the incident forming the basis of this suit by serving the Form 95 by correspondence dated September 13, 2021. Exhibit 1.

5. The Department of Veterans Affairs, the United States Department of Justice have not yet responded in any way to Plaintiff's notice mentioned in the prior paragraph.

PARTIES

6. Plaintiff is a citizen and resident of St. Clair County, Illinois.

7. Defendant United States of America, through its agency, the Department of Veterans Affairs, operates facilities throughout the United States and throughout Missouri, including the V.A. in St. Louis, Missouri.

8. Defendant United States of America, including its officers, directors, operators, administrators, employees, agents, contractors, and staff at Veterans Affairs medical centers, are hereinafter collectively referred to as the "VA Medical Center" or the "V.A."

9. At all times relevant to this Complaint, the VA Medical Center held themselves out to Plaintiff as a provider of high quality health care services, with the expertise necessary to maintain the health and safety of patients like Plaintiff.

10. At all relevant times, the directors, officers, operators, administrators, employees, agents, contractors, and staff, were acting on behalf of, and in the course and scope of their employment with Defendant United States of America by and through the VA Medical Center.

JURISDICTION & VENUE

11. This Court has jurisdiction over the parties because the claims herein arise under 28 U.S.C. § 1346(b)(1).

12. Venue is proper in the Court under 28 U.S.C. § 1402(b) in that all or a substantial portion of the acts or omissions forming the basis of these claims occurred in the Eastern District

of Missouri, and in this Division under Local Rule 2.07(A)(1) and Local Rule 2.07(B)(1) in that the claims for relief arose in the Central Division.

FACTUAL ALLEGATIONS

13. On late-September or early-October 2019, Defendant prescribed medication to Plaintiff, to wit: Aimovig, a drug used to treat migraine headaches.

14. In late-October or early-November of 2019, Plaintiff received the Aimovig self-injector at her home, and injected herself.

15. As a result of the Aimovig that was prescribed to Plaintiff, Plaintiff sustained increased anxiety, heart rate variations, and other physical and mental effects, including but not limited to memory loss, stuttering, insomnia, psychoses, breathing issues, reflux, panic attacks, and severe anxiety.

16. At the time the V.A. prescribed Aimovig to Plaintiff, Plaintiff was hypersensitive to medication, and Defendant knew or should have known this.

17. As a direct and proximate result of the V.A. prescribing the Aimovig to Plaintiff, Plaintiff was thereby damaged.

18. Plaintiff remained under the continuing care of Defendant and remains under the continuing care of Defendant as of this filing.

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17. Plaintiff re-states and re-alleges all prior paragraphs of this Complaint as if fully stated here.

18. At all times relevant, the directors, officers, operators, administrators, employees, agents and/or staff of the V.A. were employed by and/or acting on behalf of Defendant United States of America.

19. At all times relevant, the directors, officers, operators, administrators, employees, agents and/or staff, of the V.A. acted within their respective capacities and scopes of employment for Defendant United States of America.

23. The directors, officers, operators, administrators, employees, agents and/or staff of the V.A. negligently and/or recklessly, directly and proximately caused personal injury to Plaintiff, including both acts of omissions and acts of commission.

24. As a direct and proximate result of Defendant United States of America's negligence, Plaintiff sustained serious and permanent personal injuries in and about her body; she has incurred medical expenses, and other damages, and will continue to incur medical expenses, and other damages in the future; she was forced to endure pain, suffering, and mental anguish, and will continue to endure pain, suffering, and mental anguish in the future; she has suffered loss of the enjoyment of life, and will continue to suffer a loss of the enjoyment of life in the future.

25. The acts and/or omissions set forth above would constitute a claim under Missouri law.

26. Defendant United States of America is liable under 28 U.S.C. § 1346(b)(1).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered in his favor and against Defendants as follows:

1. Medical expenses, pain and suffering, future impairment, and loss of enjoyment of life in an amount in excess of \$100,000.00; and
2. Costs and attorney fees incurred in the civil action;
3. Any other relief this Court deems just and proper.

Ludwig Law Firm, LLC

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